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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/813,175

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EXAMINER

GUPTA, PARUL H

ART UNIT

PAPER NUMBER

2627

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12/23/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/813,175	<b>Applicant(s)</b> KAWAHARA, MINORU	
	<b>Examiner</b> PARUL GUPTA	<b>Art Unit</b> 2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 8/28/08.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Claims 1-15 are pending for examination as interpreted by the examiner. The amendment and arguments filed on 8/28/08 were considered.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5-6, and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sako, US Patent Publication 2004/0027942 in view of Ten Kate, US Patent 5,541,902.

Regarding claims 1, 13, 14, and 15, Sako teaches in figure 4 and paragraph 0009 a recording/reproducing device, method, and a recording medium on which a program readable by a computer to make the computer execute a process is recorded comprising: recording means for recording data on an information recording medium (paragraph 0026); readout means (23) for collectively reading out portions of said data that have already been recorded on said information recording medium in units of a predetermined amount of data; and transmission means (24 and 25) for transmitting said data read out by said readout means (paragraphs 0029 and 0030). Sako does not but Ten Kate teaches reading back data while the recording of said data by said recording means is in progress ("simultaneous reading and rewriting operations" as given in column 2, line 62 to column 3, line 5). It would have been obvious to one of

ordinary skill in the art at the time of the invention to include the concept of simultaneous read and write as taught by Ten Kate in the system of Sako. The motivation would be to decrease the buffer memory needed (column 2, line 62 to column 3, line 5).

Regarding claim 2, Sako teaches the recording/reproducing device according to claim 1, wherein: said recording means substantially simultaneously records first data at a high bit rate and second data at a lower bit rate than that of said first data (paragraph 0028), both data corresponding to a same material, on said information recording medium (since the two sets of data only differ by quality as given in paragraph 0027, it is the same material); and said readout means (element 23 of figure 4) collectively reads out said second data recorded on said information recording medium in units of a predetermined amount of data. Sako does not but Ten Kate teaches reading back data while the recording by said recording means is in progress ("simultaneous reading and rewriting operations" as given in column 2, line 62 to column 3, line 5). It would have been obvious to one of ordinary skill in the art at the time of the invention to include the concept of simultaneous read and write as taught by Ten Kate in the system of Sako. The motivation would be to decrease the buffer memory needed (column 2, line 62 to column 3, line 5).

Regarding claim 3, Sako teaches the recording/reproducing device according to claim 1, wherein said recording means intermittently records said first data and said

second data on a physically same track on said information recording medium (paragraph 0026).

Regarding claim 4, Sako teaches the recording/reproducing device according to claim 1, wherein: said recording means records said data on said information recording medium by a constant linear velocity method (paragraph 0029); and said readout means reads out said data recorded on said information recording medium while keeping a linear velocity of the recording by said recording means (paragraph 0029).

Regarding claim 5, Tan Kate teaches further the recording/reproducing device according to claim 1, further comprising storage means (element 34 of figure 2) for temporarily storing said data to be recorded.

Regarding claim 6, Tan Kate further teaches the recording/reproducing device according to claim 5, wherein, in a case where data to be transmitted is stored by said storage means (element 34 of figure 2), said readout means interrupts the readout of said data while said transmission means transmits said data stored by said storage means (shown in figure 6b, readout is interrupted while memory of buffer is emptied, which is the transmission of data stored in the buffer).

Regarding claim 12, Tan Kate further teaches in column 6, lines 1-16 the recording/reproducing device according to claim 1, wherein said transmission means continues transmitting said data regardless of such a change of status as a start and an end of recording by said recording means. The given section explains that the writing is interrupted based on the buffer memory's status, but not the other way around.

3. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sako in view of Tan Kate, further in view of Nozaki, US Patent 6,937,549.

Regarding claim 7, Sako in view of Tan Kate teaches the limitations of claim 1. Sako in view of Tan Kate does not but Nozaki teaches the recording/reproducing device, further comprising verification means for verifying the recording on said information recording medium based on said data stored by said storage means (column 11, lines 8-14 and 39-48). It would have been obvious to one of ordinary skill in the art at the time of the invention to include the concept of storing and verifying data before writing as taught by Nozaki into the system of Sako in view of Tan Kate. The motivation would be to ensure quality of data before finalizing the disc (column 11, lines 29-38 of Nozaki).

Regarding claim 8, Nozaki teaches the recording/reproducing device, wherein said transmission means diverts and transmits said data stored by said storage means for verifying said recording on said information recording medium (column 10, lines 21-30).

Regarding claim 9, Nozaki teaches the recording/reproducing device, wherein said verification means skips verification of said recording on said information recording medium if excessive time cannot be ensured by the readout with said readout means. Column 9, lines 19-42 explain situations where the verification or finalizing step is skipped. One example includes where the information is erased as a period of time of a certain extent has passed. This serves the same purpose of skipping the verification step, as excessive time is not ensured.

4. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sako in view of Tan Kate, further in view of Sako et al. US Patent Publication 2003/0161233.

Regarding claim 10, Sako in view of Tan Kate teaches the recording/reproducing device according to claim 1. Sako in view of Tan Kate does not but Sako et al. teaches in paragraph 0065 the recording/reproducing device, further comprising setting means for setting at least one of an exhaustion limit value parameter and a frequency limit value parameter (parts of the given RF signals that are necessary to reduce the focusing and tracking error signals to 0) of collective readout for said readout of said data by said readout means in accordance with a communication speed ("constant linear velocity"). The given section explains how the RF circuit is used to generate certain signals that perform the given tasks, meaning that limits are set within the circuit during the readout of the data. It would have been obvious to one of ordinary skill in the art at the time of the invention to include the concept of including the given parameters in the readout as taught by Sako et al. into the system of Sako in view of Tan Kate. The motivation would be to control the driving motor accurately (paragraph 0065 of Sako et al.).

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sako in view of Tan Kate in view of Sako et al., further in view of Shido, US Patent 5,995,704.

Regarding claim 11, Sako in view of Tan Kate teaches the recording/reproducing device according to claim 1. Sako in view of Tan Kate does not but Sako et al. teaches in paragraph 0065 the recording/reproducing device, further comprising selection means to select at least one of an exhaustion limit value parameter and a frequency

limit value parameter (parts of the given RF signals that are necessary to reduce the focusing and tracking error signals to 0) of collective readout for said readout of said data by said readout means. The given section explains how the RF circuit is used to generate certain signals that perform the given tasks, meaning that limits are set within the circuit during the readout of the data. It would have been obvious to one of ordinary skill in the art at the time of the invention to include the concept of including the given parameters in the readout as taught by Sako et al. into the system of Sako in view of Tan Kate. The motivation would be to control the driving motor accurately (paragraph 0065 of Sako et al.). Sako et al. does not but Shido teaches that a user may arbitrarily select the given control values (column 7, lines 14-23 and column 8, lines 26-29). The given sections explain how the user sets most of the control data through a setting circuit (element 810 of figure 8). It would have been obvious to one of ordinary skill in the art at the time of the invention to include the concept of a setting circuit as taught by Shido into the system of Sako et al. The motivation would be to allow the user to manually set the limiting values (column 7, lines 14-23) in response to individual requirements.

### ***Response to Arguments***

Applicant's arguments have been considered but are not persuasive.

Applicant has provided evidence in this file showing that the invention was owned by, or subject to an obligation of assignment to, the same entity as Sako et al. at the time this invention was made, or was subject to a joint research agreement at the time this invention was made. However, reference Sako et al. additionally qualifies as prior



art under another subsection of 35 U.S.C. 102, and therefore, is not disqualified as prior art under 35 U.S.C. 103(c).

Applicant may overcome the applied art either by a showing under 37 CFR 1.132 that the invention disclosed therein was derived from the invention of this application, and is therefore, not the invention "by another," or by antedating the applied art under 37 CFR 1.131.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PARUL GUPTA whose telephone number is (571)272-5260. The examiner can normally be reached on Monday through Thursday, from 10 AM to 7 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on 571-272-40904090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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